

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6806

BILL NUMBER: SB 246

DATE PREPARED: Mar 22, 2002

BILL AMENDED: Mar 14, 2002

SUBJECT: Criminal Histories of Child Care Providers.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State

Summary of Legislation: (CCR Amended) This bill prohibits the State Police Department from charging a fee for a limited criminal history record requested by a community mental retardation and other developmental disabilities center or by a supervised group living facility.

The bill prohibits reimbursement through the federal Child Care and Development Fund (CCDF) voucher program and licensure of certain child care providers based on criminal histories of providers, employees, volunteers, and household members. The bill permits a voucher agent access to the child abuse registry for use in determinations of eligibility for voucher payments. It requires a child care provider to submit drug testing results to determine eligibility for voucher payments.

The bill provides for administrative review of an action taken under the law concerning eligibility for CCDF voucher payments. The bill also prohibits voucher payments or licensure for a child care provider: (1) convicted of operating a child care home or child care center without a license; or (2) determined to have previously operated a child care home or child care center without a license.

Effective Date: July 1, 2002.

Explanation of State Expenditures: (Revised) *Administrative Review:* This bill may require additional administrative oversight for the Division of Family and Children. The Division revokes and rejects an average of 6 child care home licenses per year based upon the criminal history requirement in current law. Adding these additional requirements may increase the number of licenses revoked or rejected each year.

Criminal History Hits	1999	2000	2001
Misdemeanor	0	3	1
Felony	6	6	1
Note: These numbers are for licensed child care homes only and represent positive hits on a criminal history check.			

The bill adds criteria for voucher payment eligibility and licensing requirements. The bill adds misdemeanors related to the health or safety of a child to the list of criteria that make a provider ineligible for voucher payments. This criteria includes all child care providers that receive voucher payments regardless of provider type.

One of the current requirements for licensure and to receive CCDF funds is that the applicant shall provide limited criminal history checks for certain persons (the people included in this requirement vary upon the child care provider category).

The Family and Social Services Administration (FSSA) currently has an appeals process in place for licensed child care homes that have had their license suspended, revoked, or denied due to non-compliance with established guidelines. The current appeals rate for these homes is 0.33%, or 13 out of 4,000 licensed child care homes.

This bill affects licensed child care homes, licensed child care centers, and those registered ministries and legally licensed exempt providers that accept CCDF vouchers. This bill affects a total of 12,707 child care providers. These are broken out by provider type as follows:

- 7,722 legally licensed exempt child care facilities serving 18,938 children,
- 389 registered ministries serving 6,165 children,
- 671 licensed centers serving 63,635 children, and
- 3,925 licensed homes serving 44,802 children

The number of denials for CCDF eligibility and licensure may increase. Based on the 0.33% denial rate, the Division would be expected to deny a total of 41 providers under the provisions of this bill. This is a 215% increase over the current denial rate. Staff estimate that the appeals process costs an average of \$400 per case for a total of **\$16,400** annually. If the number of additional appeals does not substantially exceed this forecast, then the agency should be able to absorb any additional costs. However, if the number of appeals increases beyond these expectations, then the agency will incur costs at a rate of \$400 per appeal.

The State Police will incur costs associated with performing the limited and full criminal history checks. It is estimated that the State Police would need two Data Proc Op 5 positions. The direct and indirect costs associated with these two positions are estimated to be \$58,902 for FY 2003 and \$57,517 for FY 2004. The additional criminal history checks will also generate approximately \$308,200 in fee revenue which will be deposited in the General Fund. (See Explanation of State Revenue.)

The funds and resources required above could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. The Indiana State Police currently has 218 vacancies and \$5.3 M in associated salaries. Of

this, 8 positions are Data Proc Op 5. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Additional Minimum Requirements: This component of the bill is expected to have minimal fiscal impact on the Family and Social Services Administration (FSSA). FSSA currently has an appeals process in place for licensed child care homes that have had their license suspended, revoked, or denied due to non-compliance with established guidelines. The current appeals rate for these homes is 0.33%, or 13 out of 4,000 licensed child care homes.

This bill affects 22,000 additional child care facilities. These license-exempt providers must currently comply with the established eight minimum standards to participate in the CCDF voucher program. The addition of four standards to this list may increase the incidence rate of CCDF voucher denials. Staff estimate that these additional requirements will add an estimated 72 appeals annually (at an estimated cost of \$400 per appeal - \$28,000 total). If the number of additional appeals does not substantially exceed this forecast, then the agency should be able to absorb any additional costs. However, if the number of appeals increases beyond these expectations, then the agency will incur costs at a rate of \$400 per appeal.

Reckless Supervision: If a child suffers serious bodily injury as a result of reckless supervision, the child care provider commits reckless supervision of a child. All child care providers, regardless of licensure status, are subject to the provisions of this section. Reckless supervision of a child is a Class D felony and is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. If a child dies as a result of reckless supervision, the child care provider commits reckless supervision of a child resulting in death. This is a Class C felony and is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances.

The average expenditure to house an adult offender was \$22,131 in FY 2000. Individual facility expenditures ranged from \$16,442 to \$40,312. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months and for all Class C felony offenders, approximately two years.

Background: This bill extends the current law to include misdemeanors and persons other than the child care provider. Under current law, child care providers convicted of a felony are ineligible for Child Care Development Fund (CCDF) vouchers. The addition of misdemeanors brings payment of CCDF vouchers in line with licensing requirements for child care centers and child care homes, which lose their license if a provider is found to have committed a felony or misdemeanor.

This bill requires criminal history checks for additional persons associated with the child care provider and expands the types of crimes included in the check. This bill includes the provision that an application for a child care center be denied if the applicant, or an employee, or a volunteer of the applicant were convicted of a felony or a misdemeanor related to the health or safety of a child. The bill also includes the provision that an application for a child care home be denied if the applicant, or a volunteer of the applicant, or a member of the applicant's household were convicted of a felony or a misdemeanor related to the health or safety of a child. Criminal history checks are to be paid for by the child care provider.

The cost of criminal history checks are:

- \$7.00 for a limited history check (includes instate arrests for one year or less, and all instate dispositions),
- \$10.00 for a full state history check (includes all instate arrests and dispositions including juvenile),
- \$34.00 for a full national history check (includes all arrests and dispositions including juvenile), or if the check is for a volunteer of the child care center, the cost is \$28.00.

Explanation of State Revenues: (Revised) *Background Checks:* Under the bill, community mental retardation disability centers and supervised group living facilities would not be required to pay the fees for a release of a limited criminal history background check if the facility described has been in existence for at least ten years. State revenue would be reduced by the number of requests made by facilities that meet this description multiplied by the cost of the background check. The fee for a limited criminal history check is \$7. As an example, if 200 requests for a limited criminal history were made, the revenue lost would be (200 X \$7 = \$1,400). The impact would depend on the number of requests made each year. The State Police conducted 265,124 limited criminal history checks in 2001. It is not known how many of these were for community retardation disability centers and supervised group living facilities. Thus, the potential decrease in revenue cannot be determined at this time.

The State Police will receive additional revenues from the increased number of criminal history checks. Assuming that three checks are performed per child care provider, the state will take in \$308,211 in revenues for performing an estimated 38,121 checks. It is assumed that these revenues offset any expenses incurred by the State Police. These fees are deposited in the General Fund.

Reckless Supervision: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C and Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: (Revised) *Reckless Supervision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: (Revised) *Reckless Supervision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: (Revised) Family and Social Services Administration, Indiana State Police, Department of Correction.

Local Agencies Affected: (Revised) Trial courts, local law enforcement agencies.

Information Sources: Amy Brown, Legislative Director, Family and Social Services Administration, (317) 232-1149; Les Miller, Special Counsel, Indiana State Police, (317) 232-8317; Indiana Sheriffs Association;

Department of Correction.